

ORDINANCE NO. 023-133

AN ORDINANCE AUTHORIZING A
NON-HIGHWAY USE AGREEMENT
AND A CONSTRUCTION AND
MAINTENANCE AGREEMENT WITH
THE ILLINOIS DEPARTMENT OF
TRANSPORTATION FOR THE RED
LINE EXTENSION PROJECT

WHEREAS, The Chicago Transit Authority ("Authority") is undertaking a project to build stations and extend rail infrastructure on the Red Line, also known as the Red Line Extension Project (the "Project"); and

WHEREAS, The Project will extend the Red Line from the existing terminal at 95th/Dan Ryan to 130th Street and include four new stations near 103rd Street, 111th Street, Michigan Avenue, and 130th Street, with multimodal connections at each station including bus, bike, pedestrian, and park & ride facilities; and

WHEREAS, The Project will reduce commute times for residents, improve mobility and accessibility, and foster economic development, where stations may serve as catalysts for neighborhood revitalization; and

WHEREAS, The Metropolitan Transit Authority Act ("MTA Act"), 70 ILCS 3605/6, permits the Authority to acquire, construct, own, operate and maintain a public service transportation system in the area; and

WHEREAS, The Project will require Authority use of State of Illinois right-of-way (ROW) for the construction, operation, and maintenance of an aerial structure spanning the north end of the I-57 and I-94 interchange, where the Authority proposes to construct Red Line track along and over I-57, and ROW for the construction of the 130th Street highway overpass over the RLE tracks, and the State of Illinois Department of Transportation ("IDOT") has agreed to enter into a Non-Highway Use Agreement with the Authority, attached as Exhibit A hereto, to allow the Authority to use the State ROW; and

WHEREAS, The Authority will construct and IDOT will own and maintain the 130th Street highway overpass over the RLE tracks after final completion, and the parties are entering into a Construction and Maintenance Agreement, attached as Exhibit B hereto, to codify the terms for construction by the Authority and ownership and maintenance by IDOT; and

WHEREAS, The Non-Highway Use Agreement grants only a permit and license to the Authority to undertake certain permitted activities on the ROW and does not create a property right of any kind for the Authority in, upon, under, above, or along the ROW; and

ORDINANCE NO. 023-133
(Continued) -2

WHEREAS, The Federal Highway Administration ("FHWA") has the sole authority to approve the use of federal-aid interstate right-of-way, including airspace, for non-highway purposes (23 CFR §1.23); and

WHEREAS, IDOT has jurisdiction over federal interstate right-of-way in Illinois and is responsible for preserving the right-of-way free of unauthorized installations, facilities, or encroachments (23 CFR §1.23(b)); and

WHEREAS, Subject to FHWA approval, IDOT has the authority to permit the use requested by the Authority, pursuant to 605 ILCS 5/4-209; and

WHEREAS, The Authority and its contractors and other agents shall assume all liability for interference, repair, or replacement of all existing utilities, highways, bridges, and structures on and within ROW resulting from activities associated with the construction, maintenance, and operation of the Project, and the Non-Highway Use Agreement requires the Authority to assume liability for and indemnify and hold harmless IDOT for certain claims; and

WHEREAS, The construction and installation work authorized by the Non-Highway Use Agreement shall be completed by December 31, 2030, but IDOT, upon Authority request, may extend the deadline up to five years; and

WHEREAS, Upon completion of the Project, the Non-Highway Use Agreement authorizes the reconstruction and maintenance of the Project for so long as any portion of it shall remain in the ROW; and

WHEREAS, The Authority, at its own cost and expense, shall maintain the Project, while IDOT will maintain the overpass for 130th Street; and

WHEREAS, The Non-Highway Use Agreement shall continue in full force and effect after completion of the Project unless the Authority is found to be in default, IDOT requires the entire or a substantial portion of the ROW for highway purposes, FHWA revokes its approval of the use, or any reason set forth in the agreement and IDOT provides notice as required by the agreement; and

WHEREAS, The Authority will be solely responsible for construction costs relating to the agreements with no contribution from IDOT; and

ORDINANCE NO. 023-133
(Continued) -3

WHEREAS, Cooperation between and among governmental agencies and entities through intergovernmental agreements is authorized by the Intergovernmental Cooperation Act (5 ILCS 22/1 et seq.); now, therefore:

BE IT ORDAINED BY THE CHICAGO TRANSIT BOARD
OF THE CHICAGO TRANSITY AUTHORITY:

SECTION 1. It is necessary and desirable for the Authority to use State of Illinois right-of-way for the Red Line Extension Project. Such use will include construction, operation, and maintenance of the Project, upon, under, above, or along the ROW.

SECTION 2. The Chairman of the Chicago Transit Board, or his designee, is authorized the enter into a non-highway use agreement with IDOT which allows the Authority to use the State ROW for the Red Line Extension Project to construct an aerial structure beginning at the north end of the I-57 and I-94 interchange including an overpass over I-57 for Red Line tracks and to construct an overpass for 130th Street to allow Red Line tracks to pass under, and which requires the Authority to indemnify IDOT for certain claims and contains such other terms as are substantially in conformance with the Non-Highway Use Agreement between the Chicago Transit Authority and the State of Illinois Department of Transportation attached as Exhibit A hereto.

SECTION 3. The Chairman, or his designee, is further authorized to enter into a construction and maintenance agreement with IDOT for the overpass for 130th Street which requires the Authority to construct the overpass, provides that IDOT will own the overpass after completion, requires IDOT to maintain the overpass, and contains such other terms as are substantially in conformance with the 130th Bridge Construction and Maintenance Agreement between the Chicago Transit Authority and the State of Illinois Department of Transportation attached as Exhibit B hereto.

SECTION 4. The Chairman, or his designee, is further authorized to take such actions and execute such documents as may be necessary to implement the objectives of this ordinance.

SECTION 5. This ordinance shall be in full force and effect from and after its passage.

APPROVED:

PASSED:

Chairman

Secretary

November 15, 2023

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